



W.P No. 10671 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-03-2025

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P No. 10671 of 2025 AND
WMP Nos. 12030 and 12026 OF 2025

Jahabar Ali
S/o. Rahamathullah, Park Stret,
Kuthalam Town Ansd Tlauk,
Mayiladuthurai Distirct

... Petitioner

Vs

1. The Commissioner/principal
Secretary
Hindu Religious And Charitable And
Endowments Department,
Nungambakam, Chennai 600 004.

2.The Joint Commissioner
Hindu Religious And Charitable
Endowment Department,
Mayiladuthurai, Mayiladuthurai
District

3.The Assistant Commissioner
Hindu Religious And Charitable
Endowment Department,
Mayiladuthurai, Mayiladuthurai
District

4.Executive Enginner
Office Of Arulmigu Manmadeswarar
Sway Temple, Kuthalam Town
Taluk, Mayiladuthurai District



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... Respondents

PRAYER

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records of the impugned order dated 13.02.2025 in M.P.No. 23/2016/E1 by the 2nd respondent and quash the same consequently forbear the respondents from interfering in the possession and enjoyment of the petitioner for the property in S no. 176/2 to an extent of 9 cents situated at park street, kuthalam talk and Mailaduthruai District and pass.

For Petitioner : Mr.K.Balu
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
-for RR 1 to 4

ORDER

This writ petition is filed challenging the impugned order dated 13.02.2025 made in CrI.M.P.No.23/2016. By the said order, the petitioner was directed to be evicted in exercise of the powers under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

2. Mr.K.Balu, learned counsel for the petitioner would submit that in this case, the petitioner has straight away filed the writ petition without exhausting the alternative remedy because there is violation of principles of natural justice. No proper enquiry as contemplated under Section 78(4) was conducted.



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3. This Court, in the judgment in **A.Ramamurthi and Others -vs- Commissioner of HRCE and Others (2011 SCC Online Madras 1334)**, had directed a detailed enquiry including cross examination of the witnesses. No such opportunity was given in the instant case, more specifically, when the enquiry was proceeding, only on 07.02.2025 the petitioner could lay his hands on certain documents which relate to the year 1924 by which the Temple has exchanged the subject land in favour of the petitioner's predecessor-in-title. When that is produced, no proper opportunity was given to the petitioner to mark the document and to let any such evidence. In such view of the matter, the learned counsel submits that the impugned order has to be set aside and the matter has to be remitted back to the authority.

4. In reply thereof, the learned Special Government Pleader would submit that the exchange did not happen with the petitioner or his predecessor-in-title. Be that as it may. That question will be looked into by the revisional authority.

5. I have considered the said submissions of the learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned counsel appearing on behalf of the respondents.



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6. When the enquiry has been conducted, it could be seen that witnesses have been examined and exhibits have been marked. Therefore, it cannot be said that there is violation of Section 78(4) of the Act. There is alternative remedy for the petitioner to file a revision as against the order. It is the case of the petitioner that the petitioner came to know of certain documents at the fag end of the enquiry, only on 07.02.2025. In such a case, it may be a fair reason for the petitioner to produce it as additional document before the revisional authority and the revisional authority can also consider the effect of the document *vis-a-vis* the case of the petitioner and take into consideration of the same.

7. Therefore, with the above observations and with a liberty to the petitioner to file a revision under the Act as against the impugned order, the writ petition stands disposed of. Since the time for filing revision expires today and the petitioner has filed the writ petition, within one week from the date of receipt of the web copy of this order, the petitioner can file the revision and if it is filed within such time, the revisional authority shall consider the same as filed within time and consider the revision.



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8. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

21-03-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
KST

To

1.The Commissioner/principal Secretary
Hindu Religious And Charitable And
Endowments Department, Nungambakam,
Chennai 600 004.

2.The Joint Commissioner
Hindu Religious And Charitable Endowment
Department, Mayiladuthurai, Mayiladuthurai
District

3.The Assistant Commissioner
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